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July 31, 2023

Via ECF

Hon. Victoria Reznik
United States Magistrate Judge
Southern District of New York
300 Quarropas Street
White Plains, New York 10601

Re: File: 00194-Fishman
Marc Fishman v City of New Rochelle, et al
Case Number: 19-cv-00265-NSR

Dear Magistrate Judge Reznik:

I represent the plaintiff, Marc Fishman. I submit the following in opposition to the defendant's motion to compel plaintiff to provide HIPPA authorizations.

The motion to compel must be denied as defense counsel has not satisfied their obligations in meeting and conferring on this issue prior to seeking judicial intervention. Had they engaged in proper meeting and conferring they would have been clear that plaintiff would not provide any HIPPA authorizations in the absence of a confidentiality order. Such order has now been filed and is awaiting your Honor's signature. For this reason alone, the motion should be denied.


Additionally, defense counsel has previously waived any argument to oppose the plaintiff's status as a disabled person pursuant to the Americans with Disabilities Act and Rehabilitation Act. Not only did defense counsel not oppose whether plaintiff was disabled in their motion to dismiss, the Honorable Nelson S. Roman held that plaintiff plausibly established he is disabled. Such order was never challenged.

Moreover, the United States Court of Appeals for the Second Circuit granted plaintiff's motion seeking an accommodation for his disabilities in another matter. In that case plaintiff easily proved he was disabled. Currently the New York State courts also accept plaintiff's disability and allow him to receive accommodations in proceedings.



Defense counsel's discovery into plaintiff's disability is therefore nothing more than an inappropriate fishing expedition. For that reason, plaintiff should not be compelled to turn over HIPPA authorizations as to his medical conditions and disabilities.

Respectfully submitted,



Caner Demirayak, Esq.

CC: Defense counsel via ECF